

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No.187 of 2008

- Manoj Kumar, S/o Kewal Ram Agrawal, R/o Korba Road, Champa, Police Station Champa, District – Janjgir – Champa, C.G.

---- Applicant

Versus

- State Of Chhattisgarh, Through District Magistrate, District – Janjgir-Champa, C.G.

---- Respondent

For Applicant	:	Shri V.R. Tiwari, Advocate
For Respondent/State	:	Shri I. Lakra, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

26.07.2019

1. The present revision arises out of the judgment of conviction and order of sentence dated 14.01.2008 passed by the Learned Sessions Judge, Janjgir-Champa, in Cr. Appeal No. 42/2007, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant awarded by the learned Chief Judicial Magistrate, Janjgir, vide its judgment dated 14.09.2007 in Cr. Case No. 40/2007 for the offence under Sections 420 of the IPC and sentenced him to undergo RI for four years with fine of Rs. 5000/-, Section 467 of the IPC and sentenced him to undergo RI for four years with fine of Rs.5,000/-, plus default stipulations.

2. Brief facts of the case are that on 08.10.2006, while complainants Rajendra Kumar Soni, Laxmi Narayan Gupta, and Arun Gupta sitting in the office of Vidyarthi Parishad, the accused/applicant

came there and informed them about the advertisement, in SECR and showed them application form, saying that he has good terms with DRM, he knows him very well and can employ them in Railway and demanded Rs.2,360/- from complainant Rajendra. Other complainants also gave money and assurance was given to the complainants that he (applicant) would get them appointed on the post of Supervisor. After passing considerable period, the applicant could not get them employed, on 27.10.2006, upon being contacted by complainant Rajendra, the applicant started abusing him in the name of mother and father and threatened him for dire consequences. Thereafter, the FIR was lodged against the applicant. After filing of charge-sheet, charges were framed against the accused/applicant under Sections 420, 467, 294 and 506 Part-II of the IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 13 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 14.09.2007, learned Chief Judicial Magistrate has acquitted the applicant under Sections 294 and 506 Part-II of the IPC and convicted him under Sections 420 and 467 of the IPC, and sentenced him to undergo RI for four years along with fine of Rs.5000/- and RI for four years along with fine of Rs.5000/-, respectively, plus default stipulations. This order was appealed by the applicant and in the appeal, learned appellate Court has affirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Counsel for the applicant submits that the judgment of conviction and order of sentence of both the Courts below are against the evidence available on record. He further submits that both the Courts below failed to consider the fact that the prosecution has not relied upon the entire evidence and witnesses have also not proved seizure memos. He has also submitted that the learned Court below failed to consider the fact that the witnesses to the seizure disclosed different facts, even then the benefit of the same was not extended to the applicant. It is next submitted that the learned Courts below have failed to consider the fact that when accused himself is a contractor, then how could it be possible for him to employ the complainants in the government job. That apart, the prosecution has not been able to prove its case beyond reasonable doubts, so the conviction and sentence is liable to be set aside.

6. On the other hand, learned State counsel supporting the impugned judgment of conviction and order of sentence submits that conviction of the applicant is strictly in accordance with law and there is no infirmity in the same warranting interference in this case.

7. Heard counsel for the parties and perused the material available on record including the impugned judgment.

8. Having gone through the material on record and the evidence of the witnesses Upendra Kumar Patel (PW-1), Nitendra Kumar Dhirhe(PW-2), Khageshwar Patel(PW-3), Vineeta Jethani(PW-4), Rajendra Kumar Soni(PW-5), Mahendra Pratap(PW-6), Rahul Tiwari(PW-8), Renu Galewar(PW-9), Mohan Singh Rajput(PW-10), Nandkishore Mishra(PW-11) and Mukesh (PW-12), established the fact that the accused/applicant had given the advertisement form of some

posts of Railway to the complainants and also collected money from them, and all the witnesses have remained firm in their cross examination on this point. The evidence of these witnesses established the involvement of the accused/applicant in the crime in question, this Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Sections 420 and 467 of the IPC, being so they are hereby maintained.

9. In view of the aforesaid discussion, the revision is dismissed. Since, the applicant has undergone the entire sentence imposed upon him, no further order in this regard is required.

yasmin

Sd/-
(Rajani Dubey)
JUDGE